

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LAZIZJON MAMATKULOV,

Plaintiff,

-against-

MOUNT SINAI HEALTH SYSTEM,

Defendant.

22-CV-6657 (JPO)

ORDER OF SERVICE

J. PAUL OETKEN, United States District Judge:

Plaintiff brings this action *pro se*. He alleges that his employer wrongfully terminated his employment after his two week absence for medical treatment. The complaint could be liberally construed as asserting claims arising under the Family and Medical Leave Act of 1993 (FMLA), 29 U.S.C. §§ 2601-2654. By order dated August 9, 2022, the Court granted Plaintiff's request to proceed *in forma pauperis* (IFP). By order on September 2, 2022, the Court ordered service on Mt. Sinai Health System. (*See* ECF No. 5.) Multiple attempts at service failed, however, as Defendant would not accept service at the given address.

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.¹ *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

¹ Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summons and the complaint until the Court reviewed the complaint and ordered that the summons be issued. The Court therefore extends the time to serve until 90 days after the date the summons is issued.

Plaintiff has now provided a new address for service. To allow Plaintiff, again, to effect service on Defendant Mount Sinai Health System through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for Defendant Mount Sinai Health System at the newly provided address (below). The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendant.

If the complaint is not served within 90 days after the date the summons is issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service). Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is instructed to complete a USM-285 form with the address for Defendant Mount Sinai Health System and deliver to the U.S. Marshals Service all documents necessary to effect service.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

New York, New York

Dated: June 23, 2023



J. PAUL OETKEN
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

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